

09/773,547  
YO919990585US1  
YOR.169

11

### REMARKS

Claims 1-6, 8-11, and 13-34 are all the claims presently pending in the application. New claims 33-34 have been added to more completely define the invention. Claim 32 has been rewritten in dependent form, to avoid an excess claim fee. Claim 7 has been canceled and incorporated into independent claim 1, 23, and 30-32. Claim 12 has been canceled and incorporated into independent claim 10.

Claims 12-16, 18, 21- 22 and 30-31 stand rejected upon informalities (e.g., 35 U.S.C. § 112, second paragraph), and claims 1-32 stand rejected on prior art grounds. Claims 12-16, 18, 21-22, and 30-31 have been amended in a manner believed fully responsive to all points raised by the Examiner.

With respect to the prior art rejections, claims 1-11, 17, 19-21, 23 and 27-32 stand rejected under 35 U.S.C. § 102(a) as being anticipated by Tedesco et al. (U.S. Patent No. 6,161,059). Claim 22 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Tedesco et al. and further in view of Ambrose et al. (U.S. Patent No. 6,783,028). Claims 12-16 and 18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Tedesco et al. and further in view of Zgodzinski ("Click Here to Pay") and Jheeta (U.S. Patent No. 5,619,558). Claims 24-26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Marcous et al. (U.S. Patent No. 5,650,604).

These rejections are respectfully traversed in view of the following discussion.

It is noted that the claim amendments herein are made only for more particularly pointing out the invention, and not necessarily for distinguishing the invention over the prior art, narrowing the claims, or for any statutory requirements of patentability.

**BEST AVAILABLE COPY**

09/773,547  
YO919990585US1  
YOR.169

12

Further, it is noted that, notwithstanding any claim amendments made herein, Applicant's intent is to encompass equivalents of all claim elements, even if amended herein or later during prosecution. Thus, Applicant specifically states that no amendment to any claim herein should be construed as a disclaimer of any interest in or right to an equivalent of any element or feature of the amended claim.

Applicant submits that all of the pending claims are patentable over the prior art of record.

#### I. THE CLAIMED INVENTION

Applicant's invention, as disclosed and claimed (e.g., as exemplarily defined in independent claim 1) is directed to a system (and method) for conducting a survey, including a presentation unit for presenting a plurality of choices at a point-of-transaction terminal, an input unit for entering the preferred choices, and a recording unit for recording the entered choices.

The survey comprises a political poll

Independent claims 23, 27, 28, 30, and 31 recite combinations which include the above limitation that the survey comprises a political poll.

In a second exemplary embodiment, as defined for example, by independent claim 10, a system for conducting a consumer evaluation, includes a credit card reader, a point-of-transaction (POT) terminal operatively coupled to the credit card reader, a survey being interactively and electronically displayed for the consumer at a time of a transaction, a payment gateway server operatively coupled to the point-of-transaction terminal, and a survey processing center operatively coupled to the payment gateway server.

09/773,547  
YO919990585US1  
YOR.169

13

Independent claims 10, 24, and 26 recite combinations which include the aspect of the survey feature and the banking/payment feature.

Such combinations of features are not taught or suggested by any of the prior art of record.

## II. THE PRIOR ART REJECTIONS

### A. The Tedesco et al., Reference

Tedesco discloses a vending machine method and apparatus for encouraging participation in a marketing effort.

However, Tedesco fails to teach or suggest any survey which includes political polling. While Applicant notes that the Examiner's comments on page 6, lines 7-9 of the Office Action, there is no disclosure of a system such as the invention's which includes a survey including political polling. That something "can" or "could" be done, as the Examiner appears to allude, does not rise to the level of a teaching or suggestion. Indeed, Tedesco is completely silent as to such a political polling feature recited in independent claims 1, 23, 27, 28, 30, and 31.

Regarding claim 10, Tedesco does not teach or suggest the combination of a payment system with a survey system.

Indeed, claim 10 provides a system for conducting a consumer evaluation, which includes, inter alia, "a point-of-transaction (POT) terminal operatively coupled to said credit card reader, a survey being interactively and electronically displayed for said consumer at a time of a transaction; a payment gateway server operatively coupled to said point-of-transaction terminal; and a survey processing center operatively coupled to said payment gateway server."

Such a combination of features is not taught or suggested by Tedesco.

09/773,547  
YO919990585US1  
YOR.169

14

Thus, claims 1-11, 17, 19-21, 23 and 27-32 are patentable over Tedesco.

**B. The Ambrose et al., Reference**

Regarding claim 22, the deficiencies of Tedesco are described above. However, Ambrose and the alleged teaching of a fuel dispensing nozzle do not make up for the deficiencies of Tedesco described above.

Thus, claim 22 is patentable over Tedesco in view of Ambrose et al.

**C. The Zgodzinski and Jheeta References**

Regarding claim 12 (now incorporated into independent claim 10) and claims 13-16 and 18, the deficiencies of Tedesco are described above. Neither of Zgodzinski and Jheeta make up for the deficiencies of Tedesco with regard to independent claim 10.

That is, first there is no reason or motivation to combine such references with Tedesco. Zgodzinski and Jheeta are merely directed to banking systems. There is no motivation to combine Tedesco's vending machine/survey system with the payment/banking systems of Zgodzinski and Jheeta. Neither of these references shows such a combination thereof as in the invention or a physical implementation of such a system as shown in the present drawings and as claimed.

Additionally, the Examiner's reasoning as to the "obviousness" of such a combination is not persuasive, and illustrates the Examiner's impermissible use of hindsight reconstruction in urging such a combination of three (3) references.

09/773,547  
YO919990585US1  
YOR.169

15

The Examiner indicates that "it would have been obvious . . . " to include in the system of Tedesco et al. the payment gateway server of Zgodzinski to make his teachings compatible with existing banking infrastructure and the survey processing center of Jheeta to make his teachings more versatile." This circular reasoning could be said about any three references in the entire U.S. Patent library, regardless of their supposed problems, solutions offered, unique configurations, etc. This is not sound reasoning and does not provide the motivation to one of ordinary skill to make the Examiner's urged combination. There must be some reason or motivation in the references which would suggest the desirability of the Examiner's urged combination of references, not simply that it "could" be done.

Here, there is none. Here, it is clear that the Examiner has read the Applicant's specification, conducted a keyword search, and has selectively "picked and chosen" disparate elements from the "parts bin," in an attempt to yield the invention.

Moreover, there is no teaching or suggestion of the details of the implementation as defined by claims 13-16. Indeed, the details of these claims have been merely glossed over by the Examiner's rejection.

Again, with regard to claims 13 and 14, payment servers and survey servers are two entirely different things, and there would have been no reason, absent hindsight, to combine Zgodzinski and Jheeta.

Indeed, with regard to claim 16, which recites that "said credit card reader includes a display screen, and wherein the payment gateway server includes a survey router, for routing survey questions originating from a survey processing server over a network to be displayed on the credit card reader, and routes answers to survey questions received from the credit card reader

09/773,547  
YO919990585US1  
YOR.169

16

over the network to the survey processing server”, such features are not found in any of the references, even assuming arguendo that they would have been combined.

Moreover, with regard to claim 16, the Examiner takes official notice that “survey questions can be routed to the credit card reader display screen using a server.” However, applicant disagrees, and requests the Examiner to provide a reference supporting such teachings and which is properly combinable with the cited references.

Additionally, there is no teaching or suggestion of claim 18 and how the survey authorizes/provides the rewards. Again, the Examiner’s reasoning for the combination is not supported by the references and indeed is based solely on hindsight.

Thus, claims 10, 13-16 and 18 are patentable over Tedesco in view of Zgodzinski and Jheeta.

#### **D. The Marcous et al., Reference**

Regarding claim 24-26, Marcous et al. discloses a system and method for electronic transfer of funds using an automated teller machine to dispense the transferred funds.

However, the Examiner’s position is merely that Marcous teaches a credit system. However, as the Examiner freely admits, there is no teaching or suggestion of customer verification, and the administration of a survey. Such would not have been obvious to add to Marcous et al., and there certainly is no suggestion or motivation to do so.

Again, there is no authorization number, or survey, or customer verification, or linking of the two, in Marcous et al. Thus, there is no teaching or suggestion of: “... *electronically obtaining, by the payment gateway, a survey question from a survey processing unit;*

09/773,547  
YO919990585US1  
YOR.169

17

*sending, by the payment gateway, an authorization number and the survey question to the POT terminal;*

*prompting the customer to answer the survey question;*

*once an answer is entered, sending the result to the payment gateway;*

*forwarding, by the payment gateway, a result to the survey processing server; and*

*authorizing, by the survey processing server, a reward to the customer.”*

Claim 26 recites somewhat similar limitations and is patentable for similar reasons.

Thus, claims 24-26 are patentable over Marcous et al.

Finally there is no teaching or suggestion of new claims 33-34. Indeed, Tedesco (and the other cited references) have nothing whatsoever to do with loyalty points for rewarding a frequent user, as in new claim 33. Column 4, line 17-20 of Tedesco are irrelevant to such a feature. Indeed, in Tedesco, a promotion can be based on the user's previous purchase history. There is nothing disclosed or suggested about loyalty points. Further, there is no disclosure or suggestion of a political poll including voting.

### III. FORMAL MATTERS AND CONCLUSION

In view of the foregoing, Applicant submits that claims 1-6, 8-11, and 13-34, all the claims presently pending in the application, are patentably distinct over the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

09/773,547  
YO919990585US1  
YOR.169

18

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Assignee's Deposit Account No. 50-0510.

Respectfully Submitted,

Date: 3/17/05

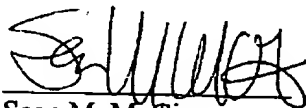


Sean M. McGinn, Esq.  
Reg. No. 34,386

**McGinn & Gibb, PLLC**  
8321 Old Courthouse Rd. Suite 200  
Vienna, VA 22182-3817  
(703) 761-4100  
Customer No. 48150

**CERTIFICATION OF FACSIMILE TRANSMISSION**

I hereby certify that I am filing this Amendment by facsimile with the United States Patent and Trademark Office to Examiner Peter Choi, Group Art Unit 3623 at fax number (703) 872-9306 this 17th day of March, 2005.



Sean M. McGinn  
Reg. No. 34,386



**This Page is Inserted by IFW Indexing and Scanning  
Operations and is not part of the Official Record**

**BEST AVAILABLE IMAGES**

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images include but are not limited to the items checked:

- ☐ BLACK BORDERS
- ☐ IMAGE CUT OFF AT TOP, BOTTOM OR SIDES
- ☐ FADED TEXT OR DRAWING
- ☐ BLURRED OR ILLEGIBLE TEXT OR DRAWING
- ☐ SKEWED/SLANTED IMAGES
- ☐ COLOR OR BLACK AND WHITE PHOTOGRAPHS
- ☐ GRAY SCALE DOCUMENTS
- ☒ LINES OR MARKS ON ORIGINAL DOCUMENT
- ☐ REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY
- ☐ OTHER: \_\_\_\_\_

**IMAGES ARE BEST AVAILABLE COPY.**

**As rescanning these documents will not correct the image problems checked, please do not report these problems to the IFW Image Problem Mailbox.**